

अण्डमान तथा
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No. 223, Port Blair, Monday, September 19, 2011

अण्डमान तथा निकोबार प्रशासन
ANDAMAN AND NICOBAR ADMINISTRATION
सचिवालय/SECRETARIAT

NOTIFICATION

Port Blair, dated the 19th September, 2011

No. 213/2011/F.No.3-383/2003-Labour.— In pursuance of Sub-Section (1) of Section 17 of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) read with Notification No. LR-1 (59)/55 dated 13th December, 1955 of the Govt. of India, Ministry of Labour and A&N Admn. Notification No.144/2008/F. No. 17-2/2007-Labour dated 7/10/2008, the Secretary (Lab.), Andaman and Nicobar Administration, hereby orders for publishing the following Award given by the Labour Court, Andaman and Nicobar Islands, Port Blair in the matter of an Industrial Dispute between the Management of the Superintending Engineer, Electricity Department and the General alleged non-payment of equal pay for equal work to Shri Shivram Yadav, Shri Sandeep Chanda, Shri S. Vathieswaran, Shri Karunanidhi and Shri Vinod Kumar.

**IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT
ANDAMAN AND NICOBAR ISLANDS, PORT BLAIR**

I.D. CASE No. 32/03

PRESENT : SHRI SIDDHARTHA CHATTOPADHYAY
JUDGE, LABOUR COURT
ANDAMAN AND NICOBAR ISLANDS
PORT BLAIR

Shri Shivram Yadav & four others
(Through General Secretary)
Electricity Workers Solidarity Union, Mazdoor Bhawan,
Port Blair.

– Versus –

The Superintending Engineer,
Electricity Department,
Port Blair.

JUDGEMENT

Reference has been made to this court in exercise of the powers conferred by Sub-Section (1) of Section 10 read with Sub-Section (5) of Section 12 of Industrial Disputes Acts, 1947 read with the Notification No. LR – 1 (59)/55 dated 13.12.55 by the Lieutenant Governor, Andaman and Nicobar Islands, to adjudicate the following :-

- 1) Whether the action of the Superintending Engineer, Electricity Department in non-payment of the wages of Data Entry Operator to Shri Shivram Yadav, Sandeep Chanda, Vathieswaran, Karunanidhi and Vinod Kumar, Temporary Status Mazdoor, Electricity Department represented by the General Secretary, Electricity Workers Solidarity Union under equal pay for equal work is legal and justified ?
- 2) If not, what relief, the concerned workmen are entitled to ?

DECISION WITH REASONS

Prior to delving into the merit of the case, factual aspects requires to be looked into 1st party workmen namely Shri S. Vathieswaran, Shri Karunanidhi, Shri Vinod Kumar were engaged by the 2nd party on daily rated basis for doing the job of Data Entry Operator on different dates and all of them claimed to have requisite qualification for the post of Data Entry Operator. Amongst them, Mr. Shivram Yadav got an adhoc promotion with a higher scale of pay. Subsequently the aforesaid workmen were given temporary status although they deserved appropriate scale of pay because they fulfill the condition of recruitment rules and requisite qualification. According to them on the basis of the judgment passed by the Hon'ble Apex Court in connection with WP-59-60 (Surinder Singh and others Vs Union of India) Ministry of Personnel Public Grievances, they are entitled to get at the rate of 1/30th of the minimum of the relevant scale of pay plus dearness allowance for leaves. Once they got at the intervention of Hon'ble Court in the year 2000. Sum and substances of their claim is such that other employees entrusted with the same kind of job have been getting more wages. They raised their voice for getting 'equal pay for equal work'.

2nd party did not appear at the time of argument. Since the case is pending for the last eight years, I have decided to dispose of it on the basis of materials available in the record.

I wanted to make reliance on the aforesaid ruling. The guiding and determining factors have been given by their Lordships at page 748. I can't help quoting the relevant Para "similarity in the designation or quantum of work are not determinative of equality in the matter of pay scales and that before entertaining and accepting the claim based on the principle of equal pay for equal work, the court must consider the factors like the service and mode of recruitment/appointment, the qualifications, the nature of work, the value judgement, responsibility, reliabilities, experiences, confidentiality, functional need etc." Therefore, the doctrine 'equal pay for equal work' can not be mechanically applied in all cases. On the contrary, court has been directed to consider the factors like 'the source and mode of recruitment/appointments, the qualifications, the nature of work, the value judgement, responsibility, reliability, experience, confidentiality, functional need etc.'

In the case in hand, I find Government of India has taken a decision not to absorb the D.R.M. in Group 'C' post. They have decided to amalgamate and to select through staff selection process. In my considered view this court has no power to interfere in the policy of the Government. Two of these 1st party workmen, did not sit for the selection test. One of them namely Mr. Shivram Yadav sat for the test but could not succeed. These applicants have some sort of knowledge in computer works but they do not have such skill as is required by the Administration. So, their status can not be equated with the person got employment in the cadre of Computer Assistant Grade 'A'. Only nomenclature is not the matter. Qualification, selection process and functional need etc. can not be lost sight of in determining 'equal pay for equal work.'

The factual aspect of the case referred to does not fit in this instant case. In the said case Junior Engineers and Assistant Engineers possess the same qualification, but here the picture is different.

Considering the facts & circumstances of the case, I have no option left with except to hold that the reference case merits rejection.

Let a copy of the judgment be sent to the Lieutenant Governor, Andaman and Nicobar Islands for information and taking necessary action.

Dictated and corrected by me.

Sd./-
(Siddhartha Chattopadhyay)
Presiding Officer,
Labour Court.

By order of the Secretary (Labour),

Sd./-
(Asiya Bibi)
Assistant Secretary (Labour)